

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DERRICK U. STRICKLIN,

Petitioner,

8:22CV279

vs.

ROB JEFFREYS, Director of the Nebraska
Department of Correctional Services;

Respondent.

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner’s “Motion to Add to Record” (the “Motion”). [Filing No. 35](#). In his Motion, Petitioner “moves for permission from the Court to add additional state court records to the record to be considered in this matter by this court.” *Id.* The records at issue are described as “record[s]” of various hearings (the “Records”) which Petitioner believes were “reported but no record of any of them has previously been prepared and none of them are contained in any state court Bill of Exceptions or other state court records designated in Filing #11 herein.” *Id.*

Pursuant to Rule 5(c) of the Rules Governing Section 2254 Cases, Respondent’s answer must include “what transcripts (of pretrial, trial, sentencing, or post-conviction proceedings) are available, when they can be furnished, and what proceedings have been recorded but not transcribed.” However, the respondent must only attach to the answer the “parts of the transcript that the respondent considers relevant.” *Id.* While pursuant to

Rule 5(c) this Court may “order that the [R]espondent furnish other parts of existing transcripts or that parts of untranscribed recordings be transcribed and furnished,” upon review of the Motion, it is unclear to the Court if Petitioner currently possesses the Records (transcribed or otherwise) and simply seeks to have them considered as part of the state court record in this case or if Petitioner seeks permission to obtain said Records or an order requiring Respondent to provide them.

As the Court is unable to ascertain the specific relief sought it is unable to rule on the Motion as currently pleaded.

IT IS THEREFORE ORDERED that:

1. Petitioner will have 30 days to show cause why his Motion to Add to Record, [Filing No. 35](#), should not be denied. Petitioner may do so by providing details of the specific relief sought. In the absence of cause shown, the Motion to Add to Record will be denied without prejudice and without further notice.
2. The Clerk of Court is directed to terminate the November 20, 2023, deadline for Petitioner to file his reply brief and response to respondent’s answer set forth in Filing No. 37 (text order). Following a ruling on the Motion to Add to Record the Court shall set a deadline for Petitioner’s reply brief and response to Respondent’s answer.
3. The Clerk of the Court is directed to set a pro se case management deadline in this case using the following text: **December 15, 2023**: check for response to show cause order.

Dated this 15th day of November, 2023.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Court